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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,843	09/19/2003	William E. Sobel	SYMAP033	5791
21912	7590	11/01/2006	EXAMINER	
VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			LASHLEY, LAUREL L	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,843

Applicant(s)

SOBEL, WILLIAM E.

Examiner

Laurel Lashley

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 16 have been examined.

Information Disclosure Statement

2. The information disclosure statement (IDS) filed 02/14/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the Applicant has submitted more non-patent literature references than the present IDS lists. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15 and 16 recite the limitation "the address". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 2132

4. Claim 15 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Thus, "[a] data signal embodied in a carrier wave" does not fall within any of the categories of patentable subject matter set forth in § 101.

To expedite a complete examination of the application, the claim rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of Applicant amending this claim to place it within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kalajan in US Patent No. 6202156 (hereinafter US '156).

6. For claim 1, US '156 discloses:

A method for network security comprising:

receiving a request from a remote address at a host;

observing a pattern associated with the request;

authenticating the remote address based on the pattern associated with the request;

and

enabling access to the host by the remote address for a configurable time

Art Unit: 2132

period if the remote address is authenticated. (see Abstract; Figure 1; column 1, lines 35 – 63, 65 – column 2, lines 1 – 10, 29 – 34, 37 – 43, 50 – 52, 60 – 65)

For claim 2, US '156 teaches:

A method for preventing network discovery of a system services configuration as recited in claim 1 further including preventing a response from being sent to the remote address. (see column 3, lines 17 – 20)

For claim 3, US '156 discloses:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein receiving a request from a remote address at the host further includes receiving a probe. (see column 2, lines 42 – 43; column 4, lines 41 – 43, 58 – 61)

For claim 4, US '156 discloses:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein observing a pattern associated with the request further includes recording data received at the host. (see column 6, lines 47 – 56)

For claim 5, US '156 teaches:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein observing a pattern associated with the request further includes matching the pattern to a list. (see column 4, lines 1 – 11)

For claim 6, US '156 teaches:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein observing a pattern associated with the request further includes recording a sequence. (see column 4, lines 35 – 39)

For claim 7, US '156 teaches:

Art Unit: 2132

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein authenticating the remote address based on the pattern associated with the request further includes comparing the pattern to a list. (see column 4, lines 1 – 11 and 54 – 61)

For claim 8, US '156 discloses:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein authenticating the remote address based on the pattern associated with the request further includes comparing the pattern to a password. (see column 4, lines 1 – 11 and 54 – 61)

For claim 9, US '156 discloses:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein authenticating the remote address based on the pattern associated with the request further includes preventing a response being sent to the remote address if the remote address fails to authenticate. (see column 5, lines 53 – 56)

For claim 10, US '156 teaches:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein authenticating the remote address based on the pattern associated with the request further includes denying access to the host if the remote address fails to authenticate. (see column 5, lines 53 – 56 and 65 - column 6, lines 1-7)

For claim 11, US '156 teaches:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein authenticating the remote address based on the pattern associated with the request further includes sending a message to the remote address if the request fails to authenticate. (see column 5, lines 53 – 56 and 65 - column 6, lines 1-7)

For claim 12, US '156 discloses:

Art Unit: 2132

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein enabling access to the host by the remote address further includes providing access for a configurable amount of time. (see column 2,, lines 61 – 64 and column 4, line 66 – column 5, lines 1 – 4)

For claim 13, US '156 discloses:

A method for preventing network discovery of a system services configuration as recited in claim 1 wherein enabling access to the host by the remote address further includes implementing a handshake between the remote address and the host. (see column 4, lines 54 – 58)

For claim 14, US '156 discloses:

A system for preventing network discovery of a system services configuration comprising:

- a port for receiving a request from a remote address;
- a listening module for observing a pattern associated with the request; and
- an agent for authenticating the remote address and the pattern associated with the request and enabling access to the port if the pattern associated with the request is authenticated. (see Abstract; Figure 1; column 1, lines 35 – 63, 65 – column 2, lines 1 – 10, 29 – 34, 37 – 43, 50 – 52, 60 – 65)

For claim 15, US '156 discloses:

A data signal embodied in a carrier wave comprising:

- instructions for receiving a request from a remote address at a port;
- instructions for observing a pattern associated with the request;
- instructions for authenticating the request from the remote address based on the pattern associated with the request; and

Art Unit: 2132

instructions for enabling access by the address to the port to initiate a connection if the request is authenticated. (see Abstract; Figure 1; column 1, lines 35 – 63, 65 – column 2, lines 1 – 10, 29 – 34, 37 – 43, 50 – 52, 60 – 65)

For claim 16, US '156 discloses:

A computer program product for preventing network discovery of a system services configuration, the computer program product being embodied in a computer readable medium and comprising computer instructions for:

receiving a request from a remote address at a port;
observing a pattern associated with the request;
authenticating the request from the remote address based on the pattern associated with the request; and

enabling access by the address to the port to initiate a connection if the request is authenticated. (see Abstract; Figure 1; column 1, lines 35 – 63, 65 – column 2, lines 1 – 10, 29 – 34, 37 – 43, 50 – 52, 60 – 65)

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horbal et al. in US Patent No. 6112246 discloses a system and method for accessing information from remote device and providing information to a client workstation. Hamdy-Swink in US Patent No. 5901284 discloses a method and system for communication access restriction.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurel Lashley whose telephone number is 571-272-0693. The examiner can normally be reached on Monday - Thursday, alt Fridays btw 7:30 am & 5 pm.

Art Unit: 2132

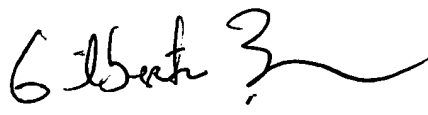
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, Jr. can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laurel Lashley
Examiner
Art Unit 2132

 26 October 2006

LLL


GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100